



would not have been eligible for had the Department correctly applied the earned income he received during this period.

3. The petitioner's argument is that the Department should "waive" the overpayment because he is disabled and because he is also in the process of repaying an overpayment of Social Security benefits.<sup>1</sup>

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner does not dispute that the earnings he received in July and August 2006 resulted in a \$284 overpayment in Food Stamps during that period. Under the Food Stamp regulations, the Department is required to "establish a claim against any household that has received more Food Stamp benefits than it is entitled to receive." F.S.M. § 273.18(a). Even if the overpayment can be determined to have been the Department's fault, or the result of an "inadvertent error" on the part of the household, the

---

<sup>1</sup> At the hearing in this matter, held on February 28, 2007, it was not clear if the petitioner was also arguing that he didn't receive the proper amount of Food Stamps in the months following August 2006. If so, he is free to file an underpayment claim with the Department if he feels he was underpaid for any of those months.

regulations provide: "The claim is a federal debt that must be established and collected in accordance with these rules . . ." F.S.M. § 273.18(a). The regulations allow "compromises" of claims *only* when it can be determined that it will take more than three years to recoup the overpayment. F.S.M. § 273.18(e)(7). Although it is not clear if the Department has considered compromising this claim, it can be noted that the minimum recoupment rate from ongoing benefits is \$10 a month (F.S.M. § 273.18[f][1][iii]), which would allow full recoupment in this case well within three years.

Inasmuch as the Department's decision that the petitioner was overpaid \$284 in Food Stamps for July and August 2006 is in accord with the above regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

# # #